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IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY EIGHTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO: 866 of 2005

Between:

1 Y.Anil Kumar, S/o.Y.S.C.Bose,
R/o.H.No.1-19-68/A-13/S-203 Prasanthi Heights,

Prasanthnagar, Kapra, Keesara Mandal, R.R.District.

2 Smt.Y.Jyothi W/o.Y.Anil Kumar
R/o.H.No.1-19-68/A-13/S-203 Prasanthi Heights,

Prasanthnagar, Kapra, Keesara Mandal, R.R.District.

... PETITIONERS

AND

The Commissioner Kapra Municipality, R.R.District.

...RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus declaring the action of the respondent in interfering with the peaceful possession and enjoyment of the petitioners schedule premises of Prasanth Heights Flat bearing No.203, Plot Nos.203, Plot Nos.A-13 and A-14 in Sy.Nos.496 and 497 in Prasanthnagar, Khapra, Khapra Municipality, Keesara Mandal, R.R.District as illegal, arbitrary and unconstitutional and consequently direct the respondent not to interfere with the peaceful possession and enjoyment of the schedule premises at Prasanth Heights Prasanthnagar, Khapra, Khapra Municipality, Keesara Mandal R.R.District and to pass such other order or orders.

Counsel for the Petitioner: MR.K.S.N.MURTHY

Counsel for the Respondent: MR.P.RADHAKRISHNA, S.C. for Kapra

Municipality.

The Court, at the admission stage, made the following:

ORDER:

Heard the learned counsel for the petitioner and the learned Standing Counsel appearing on behalf of the respondent.

2. Petitioners, in this writ petition, question the action of the respondent in interfering with their peaceful possession and enjoyment of schedule premises of Prasanth Heights Flat No.203, Plots Nos.A-13 & A-14 in S.Nos.496 and 497, Prasanth Nagar, Kapra, Kapra Municipality, Keesara Mandal, Ranga Reddy District. It is the case of the petitioners that they purchased the schedule flat from one M/s. Sri Dharani Constructions, Hyderabad after going through all the documents and construction permit and after ensuring that the builder has necessary permission to construct stilt, ground and four floors. Petitioners state that in the month of December 2004, the officials of the respondent came to the building and asked all the flat owners to show their records. When the sanction plan and the loan papers, regularization of plan and registered sale deeds etc., were placed before them, they were not satisfied and thereby threatened all the flat owners that since there is a deviation in construction in sanction plan, they would evict all the occupants and demolish the part structures of the building.

3. The facts reveal that the petitioners have purchased the flat from the builder who did not have proper permission for construction and now they filed the present writ petition seeking direction to the municipality not to interfere with their possession. When admittedly, petitioners purchased the flat which did not have proper permission for construction, this Court cannot prevent the Municipality from acting in accordance with law. No Mandamus can be issued against the Municipality. If the petitioners are aggrieved by the action of the respondent, they are at liberty to approach the competent Civil Court seeking compensation from the builder who sold the property in question.

The writ petition is without merit and is accordingly dismissed. No order as to costs.

N. V. RAMANA, J

January 28, 2005

MRR

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

Copy to:

1. The Commissioner Kapra Municipality, R.R.District.
2. Two C.D. Copies.